

REMARKS

Favorable reconsideration and allowance of the present application in view of the foregoing remarks are respectfully requested.

Currently claims 1-12, 14-16, 18, 19, 21-28, 30-32, 34 and 37-44 remain under consideration including independent claims 1, 21, 37 and 38. Claim 1, for instance, is directed to a web for use in applying a functional material. The web includes a layer having a plurality of elevated regions and defining a plurality of cavities that are located between adjacent elevated regions. The layer also has a plurality of depressed regions located intermediate the elevated regions. A plurality of functional material members are located in the cavities of the layer. The functional material members are adapted for adhesion of particles or surfaces thereon.

As stated in claim 1 and as described in the specification, the layer is extendable in the longitudinal direction such that the elevated regions are moved in a direction towards the longitudinal mid-plane of the web. In this manner, the functional material members can become repositioned with respect to the layer so that they are capable of being used by a user of the web. As stated on page 9 of the specification, such a configuration allows the web to have dual functionality and also helps to prevent the use of the functional material members until use of the functional material members is desired.

In the Office Action, all of the independent claims were rejected under 35 U.S.C. § 103 over U.S. Patent No. 5,624,427 to Bergman in view of U.S. Patent No. 4,870,725 to Dubowik. Reconsideration, however, is respectfully requested.

Bergman is directed to a female component for a refastenable fastening device.

The female fastening component comprises a structural elastic-like film web and is joined to an engaging layer which comprises a plurality of filaments or a nonwoven web. The engaging layer is for attachment to the hooks of a complementary male component.

As shown in Figure 1 in Bergman, the female component 12 includes first regions 64 that may be substantially planar and second regions 66 which include a plurality of raised rib-like elements 74. The rib-like elements 74 allow the second region 66 to undergo a substantially geometric deformation during elongation.

The Office Action correctly noted that the loop-like fastener material disclosed in Bergman is present on the entire surface of the female fastening component as opposed to only being located in cavities as defined in claim 1. The Office Action asserts, however, that it would have been obvious to remove the fastener material from the elevated regions in Bergman in view of Dubowik. In response, Applicants submit that there exists no motivation, incentive or suggestion to somehow modify Bergman as asserted in the Office Action. In fact, when viewing Bergman in its entirety, Bergman teaches away from removing any of the plurality of filaments on the surface of the female fastening component.

For example, Bergman states that the purpose of the invention is to provide "a more effective female component with an increased ability to entangle the hooks of a complementary male component". (See the Abstract and Column 3). In this regard, Bergman includes rib-like elements that are completely covered by the plurality of filaments in order to provide as many filaments as possible for attachment to the hooks of a male component. In fact, in the background section, Bergman criticizes the teachings of U.S. Patent No. 3,708,833 for employing a foam that, according to

Bergman, does not have enough openings for the hooks of conventional male components and therefore does not have sufficient strength to hold the hooks.

Further, removing any of the filaments on the female fastening component disclosed in Bergman provides no apparent advantage that would make the modification desirable. In stark contrast, removing any of the filaments would weaken the ability of the material to entangle with the hooks of a complementary male component.

Dubowik, on the other hand, is directed to a touch fastener that requires the presence of a bi-stable member. The bi-stable member is made from a planar, resiliently flexible material, such as a vacuum-formable plastic or metal. The bi-stable member moves between a first stable position arched over a hole and a second stable position depressed into the hole. All of the non-prior art drawings in Dubowik illustrate how the bi-stable member may be constructed and disposed within a first member.

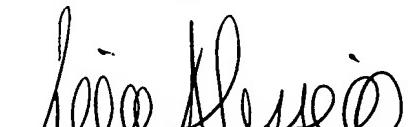
If Bergman were somehow modified in view of Dubowik, it is unclear how the bi-stable members required in Dubowik would somehow be incorporated into the female fastening component described in Bergman. Applicants submit that incorporating bi-stable members as disclosed in Dubowik into the female fastening component described in Bergman would adversely interfere with the stretch characteristics of the layer described by Bergman and therefore would negatively impact on one of the intended purposes of the layer. Thus, Applicants submit that any modification of Bergman in view of Dubowik would be improper and would rely primarily on impermissible hindsight in view of Applicants' invention.

In summary, Applicants submit that the presently pending claims patentably define over the prior art of record and are in complete condition for allowance. Should any issues remain after consideration of this response, however, then Examiner Brittain is invited and encouraged to telephone the undersigned at his convenience.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

DORITY & MANNING, P.A.



Timothy A. Cassidy
DORITY & MANNING, P.A.
P.O. Box 1449
Greenville, SC 29602
(864) 271-1592
(864) 233-7342

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Date